IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 5910 of 2007(C)

PETITIONER:

DR. M.SAYANAR, S/O.T.K.MOHAMMED,
"BHAVANA", PARTHANKUNNU, DHONI POST,
PALAKKAD DISTRICT.

BY ADV. SRI.K.T.SHYAMKUMAR

RESPONDENTS:

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1. STATE BANK OF INDIA,
PALAKKAD BRANCH, ENGLISH CHURCH ROAD, PALAKKAD,
REPRESENTED BY ITS PRINCIPAL OFFICER,
THE ASSISTANT GENERAL MANAGER.

2. STATE BANK OF INDIA,
AGRICULTURAL DEVELOPMENT BRANCH (ADB), PALAKKAD,
REPRESENTED BY ITS BRANCH MANAGER.

3. THE TAHSILDAR (REVENUE RECOVERY),
PALAKKAD.

4. THE VILLAGE OFFICER,
AKATHETHARA VILLAGE, PALAKKAD DISTRICT.

R1 & R2 BY ADV.SRI.P.V.SURENDRANATH.
R3 & R4 BY GOVT.PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.5910 OF 2007-C

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Dated this the 26th day of February, 2007.

JUDGMENT

The contention of the petitioner is that among the different items of properties which were pledged by the petitioner to the respondent Bank, one is an agricultural land and therefore, the provisions of the SARFAESI Act do not apply in view of Section 31 thereof. If that be so, other properties which are subject of the security interest can be proceeded with by the bank under the said Act and any dispute of the petitioner that a particular land is an agricultural land is a matter that can be properly raised before the DRT in appropriate application under the SARFAESI Act because, the question that a particular parcel is an agricultural land is a question of fact which the High Court cannot, in writ jurisdiction, decide. This is all the more so because, the petitioner says that it is an

agricultural land. The learned standing counsel for the Bank points out that the industrial building of the petitioner constructed utilising the funds availed from the Bank stands on the said land. Hence, without prejudice to the right of the petitioner, this writ petition is closed.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-